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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,396	09/23/2003	Takeshi Yoneda	032405R156	9368
441	7590	01/11/2006	EXAMINER	
SMITH, GAMBRELL & RUSSELL, LLP 1850 M STREET, N.W., SUITE 800 WASHINGTON, DC 20036			MANCHO, RONNIE M	
			ART UNIT	PAPER NUMBER
			3663	

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/667,396

Applicant(s)

TAKESHI Y.

Examiner

Ronnie Mancho

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/27/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-30 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In amended independent claims 1 and 13, the applicant has added the new matter "setting a ration of control values between the feed forward and feedback control". The examiner notes that a ration of clutch torque is disclosed in the application, but there is no disclosure of a ration of control values *between the feed forward and feedback control*,

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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In independent amended claims 1 and 13, the applicant claims, “so as to effectively suppress a wheel slippage by adequately setting a ration of control values between the feed forward and feedback control”. The limitations “effectively”, “adequately”, are indefinite. The applicant has not set the meets and bounds of the claim limitations.

In claim 26, “the brake signal” lacks antecedent basis.

In claims 29 and 30, “the final clutch torque” lacks antecedent basis,

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Rodrigues et al (6047231).

Regarding claim 1, Rodrigues (abstract, figs. 1-4; col. 2, lines 54 to col. 3, lines 1-40) disclose a differential limiting control apparatus for a vehicle having a clutch unit 135 interposed between one rotational shaft 132 and another rotational shaft 133 (fig. 1) for variably changing a driving force transmission between the one rotational shaft and the other rotational shaft, comprising:

a feedback control clutch torque computing unit 100 for computing the clutch torque of the clutch unit 135 based on vehicle behaviors (col. 3, lines 1-40; col. 6, lines 39-63) through feedback control,

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a feed forward unit 100 for computing the clutch torque based on said behaviors through a feed forward control,

a tire diameter difference computing unit for computing diameter difference of a tire (col. 9, lines 1-21), and

a clutch torque computing unit for computing a final clutch torque by changing a ratio of said torque obtained through the feedback control and the feed forward control according the diameter difference of the tire (col. 6, lines 42-63; col. 9, lines 1-21) so as to effectively suppress a wheel slippage by adequately setting a ration of control values between the feed forward and feedback control.

Regarding claim 2, Rodrigues (abstract, figs. 1-4; col. 2, lines 54 to col. 3, lines 1-40; col. 4-9) disclose the differential limiting control apparatus of claim 1, wherein:

the feedback control clutch torque computing unit has a target differential speed setting unit for setting a target differential speed between the one rotational shaft and the other rotational shaft;

an actual differential speed detecting unit for detecting an actual differential speed between the one rotational shaft and the other rotational shaft; and

a clutch torque computing unit for computing an engagement force of the clutch unit by obtaining a deviation between the target differential speed and the actual differential speed with a switching function by using at least a polarity related to an integral term of the deviation and by applying a sliding mode control.

Regarding claim 3, Rodrigues (abstract, figs. 1-4; col. 2, lines 54 to col. 3, lines 1-40; col. 4-9) disclose the differential limiting control apparatus as set forth in claim 1, wherein:

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the clutch torque computing unit reduces the ratio of said clutch torque obtained through the feed forward control as the diameter difference of the tire increases.

Regarding claim 4, Rodrigues (abstract, figs. 1-4; col. 2, lines 54 to col. 3, lines 1-40; col. 4-9) disclose the differential limiting control apparatus as set forth in claim 1, wherein:

the tire diameter difference computing unit calculates the diameter difference based on at least an actual differential speed between the one rotational shaft and the other rotational shaft when the vehicle is running substantially straight and when slippage is so difficult to be detected between a road and wheels.

Regarding claim 5, Rodrigues (abstract, figs. 1-4; col. 2, lines 54 to col. 3, lines 1-40; col. 4-9) disclose the differential limiting control apparatus as set forth claim 1, wherein:

the clutch unit is interposed between a front axle and a rear axle.

Regarding claim 6, Rodrigues (abstract, figs. 1-4; col. 2, lines 54 to col. 3, lines 1-40; col. 4-9) disclose the differential limiting control apparatus as set forth claim 2, wherein:

the clutch unit is interposed between a front axle and a rear axle.

Regarding claim 7, Rodrigues (abstract, figs. 1-4; col. 2, lines 54 to col. 3, lines 1-40; col. 4-9) disclose the differential limiting control apparatus as set forth claim 3, wherein:

the clutch unit is interposed between a front axle and a rear axle.

Regarding claim 8, Rodrigues (abstract, figs. 1-4; col. 2, lines 54 to col. 3, lines 1-40; col. 4-9) disclose the differential limiting control apparatus as set forth claim 4, wherein:

the clutch unit is interposed between a front axle and a rear axle.

Regarding claim 9, Rodrigues (abstract, figs. 1-4; col. 2, lines 54 to col. 3, lines 1-40; col. 4-9) disclose the differential limiting control apparatus as set forth claim 1, wherein:

the clutch unit limits a differential action of a differential interposed between left and right wheel.

Regarding claim 10, Rodrigues (abstract, figs. 1-4; col. 2, lines 54 to col. 3, lines 1-40; col. 4-9) disclose the differential limiting control apparatus as set forth Claim 2, wherein:

The clutch limits a differential action of a differential interposed between left and right wheel.

Regarding claim 11, Rodrigues (abstract, figs. 1-4; col. 2, lines 54 to col. 3, lines 1-40; col. 4-9) disclose the differential limiting control apparatus as set forth Claim 3, wherein:

The clutch limits a differential action of a differential interposed between left and right wheel.

Regarding claim 12, Rodrigues (abstract, figs. 1-4; col. 2, lines 54 to col. 3, lines 1-40; col. 4-9) disclose the differential limiting control apparatus as set forth Claim 4, wherein:

The clutch limits a differential action of a differential interposed between left and right wheel.

Regarding claim 13, Rodrigues (abstract, figs. 1-4; col. 2, lines 54 to col. 3, lines 1-40; col. 4-9) disclose the differential limiting control method for a vehicle having a clutch unit interposed between one rotational shaft and another rotational shaft for variably changing a transmitting route of a driving force between the one rotational shaft and the other rotational shaft, comprising the steps of:

computing the clutch torque of the clutch unit based on behaviors of a vehicle (col. 3, lines 1-40; col. 6, lines 39-63) through feedback control,

computing said clutch torque based on said behaviors through a feed forward control,

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computing a diameter difference of tires (col. 9, lines 1-21), and
computing a final clutch torque by changing said ratio of the clutch torque obtained through the feedback control and said clutch torque obtained through the feed forward control according to the tire diameter difference of the tire (col. 6, lines 42-63; col. 9, lines 1-21) so as to effectively suppress a wheel slippage by adequately setting a ration of control values between the feed forward and feedback control.

Regarding claim 14, Rodrigues (abstract, figs. 1-4; col. 2, lines 54 to col. 3, lines 1-40; col. 4-9) disclose the differential limiting control apparatus as set forth Claim 13, wherein:

The feedback control clutch computing step has a target differential speed setting step for setting a target differential speed between the one rotational shaft and the other rotational shaft, an actual speed detecting step for detecting an actual differential speed between the one rotational shaft and the other rotational shaft, and

a clutch torque computing step for computing an engagement force of the clutch unit by obtaining a deviation between the target differential speed and the actual differential speed with a switching function by using at least a polarity related to an integral term of the deviation and by applying a sliding mode control.

Regarding claim 15, Rodrigues (abstract, figs. 1-4; col. 2, lines 54 to col. 3, lines 1-40; col. 4-9) disclose the differential limiting control method as set forth in claim 13 wherein:

The clutch torque computing step reduces the ratio of said clutch torque obtained through the feed forward control as the diameter difference of the tire increases.

Regarding claim 16, Rodrigues (abstract, figs. 1-4; col. 2, lines 54 to col. 3, lines 1-40; col. 4-9) disclose the differential limiting control method as set forth in claim 13 wherein:

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the diameter difference computing step calculates the diameter difference based on least an actual differential speed between the one rotational shaft and the other rotational shaft when the vehicle is running substantially straight and when a slippage is difficult to be detected between the road and said wheel.

Regarding claim 17, Rodrigues (abstract, figs. 1-4; col. 2, lines 54 to col. 3, lines 1-40; col. 4-9) disclose the differential limiting control method as set forth in claim 13, wherein:

the clutch unit is interposed between a front axle and rear axle.

Regarding claim 18, Rodrigues (abstract, figs. 1-4; col. 2, lines 54 to col. 3, lines 1-40; col. 4-9) disclose the limiting control method as set forth in claim 14, wherein:

the clutch unit is interposed between a front axle and rear axle.

Regarding claim 19, Rodrigues (abstract, figs. 1-4; col. 2, lines 54 to col. 3, lines 1-40; col. 4-9) disclose the limiting control method as set forth in claim 15, wherein:

the clutch unit is interposed between a front axle and rear axle.

Regarding claim 20, Rodrigues (abstract, figs. 1-4; col. 2, lines 54 to col. 3, lines 1-40; col. 4-9) disclose the limiting control method as set forth in claim 16, wherein:

the clutch unit is interposed between a front axle and rear axle.

Regarding claim 21, Rodrigues (abstract, figs. 1-4; col. 2, lines 54 to col. 3, lines 1-40; col. 4-9) disclose the limiting control method as set forth in claim 13, wherein:

the clutch unit limits the differential action of a differential interposed between a left and right wheel.

Regarding claim 22, Rodrigues (abstract, figs. 1-4; col. 2, lines 54 to col. 3, lines 1-40; col. 4-9) disclose the limiting control method as set forth in claim 14, wherein:

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the clutch unit limits the differential action of a differential interposed between a left and right wheel.

Regarding claim 23, Rodrigues (abstract, figs. 1-4; col. 2, lines 54 to col. 3, lines 1-40; col. 4-9) disclose the limiting control method as set forth in claim 15, wherein:

the clutch unit limits the differential action of a differential interposed between a left and right wheel.

Regarding claim 24, Rodrigues (abstract, figs. 1-4; col. 2, lines 54 to col. 3, lines 1-40; col. 4-9) disclose the limiting control method as set forth in claim 16, wherein:

the clutch unit limits the differential action of a differential interposed between a left and right wheel..

Regarding claim 25, Rodrigues (abstract, figs. 1-4; col. 2, lines 54 to col. 3, lines 1-40; col. 4-9) disclose the apparatus as set forth in claim 1, wherein: the feed forward unit computes the clutch torque based on a throttle.

Regarding claim 26, Rodrigues (abstract, figs. 1-4; col. 2, lines 54 to col. 3, lines 1-40; col. 4-9) disclose the apparatus as set forth in claim 1, further comprising a brake switch, and

When On signal is inputted from the brake signal, the clutch torque obtained through the feed forward control is made to be zero.

Regarding claim 27, Rodrigues (abstract, figs. 1-4; col. 2, lines 54 to col. 3, lines 1-40; col. 4-9) disclose the limiting control method as set forth in claim 13, further comprising:

Computing said clutch torque through the feed forward control based on a throttle opening control.

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Regarding claim 28, Rodrigues (abstract, figs. 1-4; col. 2, lines 54 to col. 3, lines 1-40; col. 4-9) disclose the limiting control method as set forth in claim 13, wherein when an ON signal is inputted from a brake signal, the clutch torque obtained through the feed forward control is made to be zero.

Regarding claims 29 and 30, Rodrigues (abstract, figs. 1-4; col. 2, lines 54 to col. 3, lines 1-40; col. 4-9) disclose a final clutch torque which involves the claimed equation as disclosed by the applicant.

The statements of intended use or field of use, "to effectively suppress", "adequately setting", see claims 1 and 13; "computes", see claim 25; "when ON is inputted", "is made zero", see claim 26; and the equation ($T_{lsd} = R_{tr} T_{lsd_{ff}} + (1 - R_{tr}) \cdot T_{lsd_{fb}}$) etc clauses are essentially method limitations or statements of intended or desired use. Thus, these claims as well as other statements of intended use do not serve to patentably distinguish the claimed structure over that of the reference. See *In re Pearson*, 181 USPQ 641; *In re Yanush*, 177 USPQ 705; *In re Finsterwalder*, 168 USPQ 530; *In re Casey*, 512 USPQ 235; *In re Otto*, 136 USPQ 458; *Ex parte Masham*, 2 USPQ 2nd 1647.

See MPEP § 2114 which states:

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ 2nd 1647

Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than functions. *In re Danly*, 120 USPQ 528, 531.

Apparatus claims cover what a device is not what a device does. Hewlett-Packard Co. v. Bausch & Lomb Inc., 15 USPQ2d 1525, 1528.

As set forth in MPEP § 2115, a recitation in a claim to the material or article worked upon does not serve to limit an apparatus claim.

Response to Arguments

7. Applicant's arguments filed 10/27/05 have been fully considered but they are not persuasive.

The applicant has amended the claims and argues that the new limitation "so as to effectively suppress a wheel slippage by adequately setting a ration of control values between the feed forward and feedback control" is not disclosed by the prior art. The examiner respectfully disagrees. The new limitations have 112 issues that need to be corrected. It is believed that the prior art anticipates the claims. The rejection therefore stands.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Communication


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronnie Mancho whose telephone number is 571-272-6984. The examiner can normally be reached on Mon-Thurs: 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ronnie Mancho
Examiner
Art Unit 3663

1/9/06


JACK KEITH
SUPERVISORY PATENT EXAMINER